

Water Conservation & Stormwater Funding: Proposition 218 Modernization

Background

After voters enacted Proposition 13 in 1978, revenue dried up for stormwater management, among many other local services. As time went on, counties and cities could not raise revenue to keep up with construction, maintenance, or replacement of failed drainage facilities.

As state and federal water quality requirements have steadily increased, counties and cities have had to develop and implement plans to reduce the level of pollutants discharged into federal and state waters. These requirements are very costly and further strain local government budgets.

Many stormwater management agencies turned to assessments and other measures to pay increased costs. However, in 1996 California voters passed Proposition 218 to require voter approval of almost all local taxes, including the assessments, charges, and fees stormwater management agencies had come to rely on. Water and sewer services are exempt from Proposition 218, but a 2002 court case found that stormwater does not qualify for those exemptions.

In another, more recent case, the court struck down a tiered rate structure in San Juan Capistrano that was aimed at water conservation. The court ruled that, while tiered water rates do not necessarily violate Proposition 218, they must correspond to the actual cost of providing water service at any given level of usage, due to the requirement in Proposition 218 that water charges allocate costs to parcels in proportion to the services they receive.

Proposition 218 creates challenges for local government to manage water responsibly for public safety, environmental, and conservation purposes. Given the court decisions and new requirements relative to how the state manages its water resources, voters should be given the opportunity to consider reforms that reflect the needs of modern water conservation, flood control, and stormwater management.

Any legislative plan that puts a measure on the ballot to reform Proposition 218 will require a two-thirds vote of the Legislature.

Talking Points

- The drought has highlighted two consequences of Proposition 218:
 - **Stormwater.** Counties and cities are not able to raise funds needed to improve stormwater quality, use stormwater to recharge and increase groundwater supplies, and protect property from flood damage.
 - **Conservation.** Water suppliers are not able to adopt tiered rate structures that will incentivize water conservation, especially for larger than average users.
- CSAC supports constitutional reforms to allow local governments to manage water responsibly and fix the unintended consequences of Proposition 218.
- These reforms should provide local agencies the flexibility to enact funding mechanisms that will enable them to improve water supply reliability, water quality for public and environmental health, and protect people from floods.
- Any reforms should also maintain high standards of transparency and accountability.